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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,619	10/28/2003	Howard Elliott	85328.88008	3907
22807	7590	09/06/2006	EXAMINER	
GREENSFELDER HEMKER & GALE PC SUITE 2000 10 SOUTH BROADWAY ST LOUIS, MO 63102			PICKETT, JOHN G	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary

Application No.

10/695,619

Applicant(s)

ELLIOTT, HOWARD

Examiner

Gregory Pickett

Art Unit

3728

All participants (applicant, applicant's representative, PTO personnel):

(1) Gregory Pickett.

(3) _____.

(2) Peter Gilster.

(4) _____.

Date of Interview: 23 August 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 1.

Identification of prior art discussed: Margulies-Price.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Discussed a proposed amendment to the claims (see proposed amendment dated 2 August 2006). Agreement was not reached as to whether the proposed amendment would overcome the art of record.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

A. Pickett
Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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AUG 02 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Atty. Docket 85328-88008

Howard Elliott

Group Art Unit: 3728

Application Ser. No.: 10/695,619

Examiner: John G. Pickett

Filed: October 28, 2003

For: DISPENSING CONTAINERS

CERTIFICATION OF FACSIMILE TRANSMISSION

TO: Facsimile #571-273-8300
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

FROM: Peter S. Gilster
Greensfelder, Hemker & Gale, P.C.
Intellectual Property Group

Number of Pages Transmitted (including this page): 8

I hereby certify that these papers are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

- ☒ Request for Interview with the Examiner and Brief Summary of Points for Discussion (6 pgs.);
- ☒ Applicant Initiated Interview Request Form (1 pg.);
- ☒ Please charge any additional costs, or credit any overpayment or refund, to our Deposit Account No. 07-1985.

Respectfully submitted,

2 Aug. 2006
Date

Kathi Berndt
Kathi Berndt
Greensfelder, Hemker & Gale, PC
10 S. Broadway, Suite 2000
St. Louis, Missouri 63102
314-241-9090 Telephone
314-345-4704 Facsimile

PTOL-413A (09-04)
Approved for use through 07/31/2006. OMB 0851-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 10/965,619 First Named Applicant: ELLIOTT, Howard
Examiner: John G. Pickett Art Unit: 3907 Status of Application: _____

Tentative Participants:

(1) Examiner Pickett (2) Peter Gilster, Representative
(3) _____ (4) _____

Proposed Date of Interview: Tuesday, 8 August 2006 Proposed Time: 12 Noon (AM/PM)

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>103 Rej.</u>	<u>1</u>	<u>Margulies-Price</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

Brief Description of Arguments to be Presented:

An interview was conducted on the above-identified application on 8/23/06.
NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Peter S. Gilster
Applicant/Applicant's Representative Signature

Peter S. Gilster

Typed/Printed Name of Applicant or Representative

25,337

Registration Number, if applicable

John G. Pickett
Examiner/SPE Signature

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 422 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22312-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

903044

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 In Re Application of: Atty. Docket 85328-88008
Howard Elliott Group Art Unit: 3728
Application Ser. No.: 10/695,619 Examiner: John G. Pickett
10 Filed: October 28, 2003
For: DISPENSING CONTAINERS

15 REQUEST FOR INTERVIEW WITH THE EXAMINER
AND BRIEF SUMMARY OF POINTS FOR DISCUSSION

Commissioner for Patents
P.O. Box 1450
20 Alexandria, VA 22313-1450

Attention: Examiner John G. Pickett

Sir:

25

Responsive to the Office action of 26 June 2006 (final)
following response filed on 12 April 2006 to the Official Action
of 24 January 2006, Applicant requests that Examiner grant a
telephone interview after final under the provisions of
30 MPEP §713.09, as the undersigned wishes to discuss Applicant's
claim 1.

Attached is Form PTOL-413A for an Applicant Initiated
Interview Request.

1
Elliott, Howard
S.N. 10/695,619- Filed October 28, 2003
Atty Docket No. 85328-88008
902964v5

Claim 1 presently reads:

- 5 1. (previously amended) A container for storing and dispensing consumer products,
comprising:
- a tray having a generally planar top surface into which has been formed one or more
discrete cavities for receiving the consumer products; and
 - a cover film to be secured to the generally planar top surface of the tray to seal the
10 one or more cavities to retain the consumer products in the one or more cavities;
the cover film having pre-formed tear lines defining a tear-off portion corresponding
to the periphery of the or each cavity to retain the consumer products in that cavity until it is
removed by tearing along its tear lines, the or each tear-off portion of the cover film having
an associated lug portion not secured to the tray in use, for gripping by a consumer
15 preparatory to tearing off the said tear-off portion;
- CHARACTERISED IN THAT the top surface of the tray has an upwardly extending
protrusion positioned to be located beneath the or each lug portion in use to bend that lug
portion upwardly out of the plane of the remainder of the cover film when the cover film is
secured to the generally planar top surface of the tray.

20

It is proposed to amend claim 1 to read instead:

1. (as proposed to be amended) A container for storing and
dispensing consumer products, comprising:
- 25 a tray having a generally planar top surface into which has
been formed one or more discrete cavities for receiving the
consumer products; and
 - a cover film to be secured to the generally planar top
surface of the tray to seal the one or more cavities to retain
30 the consumer products in the one or more cavities;

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the cover film having pre-formed tear lines defining a
respective tear-off portion corresponding to the periphery of
one or more cavities [the or each cavity] to retain the consumer
products in [that] the respective cavity until the tear-off
5 portion [it] is removed by tearing along its tear lines, the
respective [or each] tear-off portion of the cover film having a
respective [an] associated lug portion not secured to the tray
in use, for gripping by a consumer preparatory to tearing off
the respective [said] tear-off portion;

10 CHARACTERISED IN THAT the top surface of the tray, prior to
the application of the cover film, has an upwardly extending
projection positioned to be located underneath the respective
[or each] lug portion in use to bend that lug portion upwardly
15 out of the plane of the remainder of the cover film when the
cover film is [secured] applied to the tray to secure it to the
generally planar top surface of the tray to retain the consumer
products in the one or more cavities.

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REMARKS

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Status of the claims. Claims 1-12 are in the application. Claims 1-9, 11 and 12 were rejected. Original claims 1-8, 11 and 12 were presented again. Claim 9 was previously amended. Claim 10 stands as objected to only as depending from a rejected claim, and is deemed by Examiner to be allowable if rewritten independently.

Section 103 rejection of claims 1 over Margulies et al. 4,294,361 in view of Price 5,339,960. Examiner has continued the 103 rejection of claim 1 over Margulies-Price. But reconsideration of this theory of rejection by Examiner is requested for the reasons evident as we here give and would emphasize in the interview.

It seems to Applicant from the Office action of 26 June 2006 that the Examiner may see the "characterised" clause of claim 1 as being too broad, and although the situation is not fully clear, Applicant is led to inquire whether Examiner feels the present claim 1 would cover the situation where the lug portions are bent at some point in time after cover film has been applied to the tray and secured. Thus, is it possible that Examiner thinks then that Margulies becomes relevant when the second cavity is inverted to force the lug portion out of the plane of the remainder of the cover film? Applicant observes that it is beyond doubt that Margulies only has "upwardly extending projections" because of the manual inversion of the

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second cavities after the cover film has been applied and when the contents of one of the first cavities must be dispensed. The idea of bending the lug portions when the cover film is applied is necessarily beyond the Margulies patent and entirely
5 contradictory to Margulies because of the emphasis in that patent reference on making the blister strip child-resistant. This surely teaches directly away from making the lug portions easy to grasp, as Applicant's claimed construction provides. It seems true from Figure 3 of Margulies that Margulies tray 10 has
10 an upwardly extending protrusion 18 to bend lug 22 upwardly out of the plane of cover film 14 but only when an adjacent cavity is inverted as therein shown.

As will be discussed, proposed claim not only characterizes
15 the invention in a way that defines over Margulies-Price by defining features unsuggested by Margulies. It also has incidental amendments prior to the characterizing clause, and not related to the cited art, to clarify the language and make it more readily understood by avoiding uncertainty.

20

We hope that Examiner will favorably reconsider claim 1, and will discuss the matter during brief telephone interview. If Examiner would kindly call Peter Gilster, the undersigned, at 314-345-4741 direct or indicate by message that the matter can be
25 discussed, we will surely appreciate, and the undersigned will keep the case at hand. If Examiner can't conveniently call, the undersigned will call Examiner at 571-272-4560 during the examiner's business hours 11:30a-8:00p, and preferable on August 8 at 12 noon EDST.

30

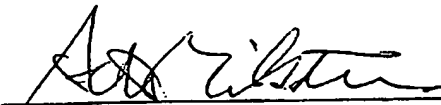
5

Elliott, Howard
S.N. 10/695,619- Filed October 28, 2003
Atty Docket No. 85328-88008
902964v5

In advance, the courtesy of an interview is appreciated.

Respectfully submitted,

Date: 2 Aug. 2006


Peter S. Gilster, Reg. 25,337
Greensfelder, Hemker & Gale, P.C.
Intellectual Property Group
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St. Louis, Missouri 63102
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Attorneys for Applicant
Customer Number: 22807

Attachment(s):

Form PTOL-413A

Transmittal with Certification of Fax Transmittal

Elliott, Howard
S.N. 10/695,619- Filed October 28, 2003
Atty Docket No. 85328-88008
902964v5